

Message Text

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SUBJ: WEST GERMAN CHEMICAL INDUSTRY'S PRELIMINARY REACTION TO
U.S. TOXIC SUBSTANCES CONTROL ACT (TSCA)

SUMMARY: EPAS FRANKFURT PRESENTATION CONFIRMED POST'S IMPRESSIONS
THAT WEST GERMAN CHEMICAL INDUSTRY VIEWS TSCA WITH
CONCERN AND SKEPTICISM. GERMAN CHEMICAL INDUSTRY PLANS
ORGANIZE DELEGATION TO VISIT EPA WASHINGTON TO
EXPRESS IN DETAIL ITS VIEWS ON ACT BEFORE NOVEMBER.
MOST CONTROVERSIAL ISSUE FOR GERMANS CONCERNS NAMMER WITH
WHICH USG WILL CONTROL PRIVILEGED INFO PROVIDED IT BY
INDUSTRY. OTHER SECTIONS OF LAW FOR WHICH CLARIFICATION
AND/OR ADJUSTMENTS SOUGHT INCLUDE: LICENSING AND CLEARING
SYSTEMS; CRITERIA FOR DEFINING "NEW PRODUCTS"; TIME-
TABLE FOR COLLECTION OF INFO; METHODS OF COMPILING
"INVENTORY LISTS"; PROCEDURES IN APPLYING TESTING
REQUIREMENTS; AND TREATMENT OF PETROLEUM PRODUCTS.
END OF SUMMARY.

1. FOLLOWING "OUTLINE AND SUBSTANCE OF TSCA" A BRIEFING BY
IRVING L. FULLER, OFFICE OF INTERNATIONAL ACTIVITIES, EPA, IN
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FRANKFURT ON JULY 1 BEFORE AN AUDIENCE OF FORTY GERMAN CHEMICAL
INDUSTRY REPS., A LIVELY DISCUSSION AND DEBATE BROUGHT TO
LIGHT SIGNIFICANT AND SUBSTANTIAL CONCERN ON PART OF MANU-
FACTURERS RE THE ACT.

2. GERMANS TOP OFFICIALS REGARD TSCA AS A POSSIBLE
COMPLICATING FACTOR IN THEIR EXPORT AND U.S. INVESTMENT PROGRAMS.

THEIR ACTIVE OBJECTIONS TO CERTAIN PROVISIONS ON THE ACT HAS NOW BEGUN. GERMAN INDUSTRY'S CONCERN IS MAGNIFIED BECAUSE TSCA REPRESENTS ANOTHER NEW REGULATORY ELEMENT E.E., ALONG WITH THE EXISTING 6TH AMENDMENT TO THE CURRENT DIRECTIVE ON DANGEROUS SUBSTANCES OF THE EEC AUTHORITY AND THAT AUTHORITY'S "NOTIFICATION OF NEW SUBSTANCES PROCEDURES" WHICH THE INDUSTRY HAS ONLY BEGUN TO ADDRESS.

3. GERMAN INDUSTRY SPOKESMEN MAINTAIN THAT TSCA, IN ITS PRESENT FORM HAS NOT BEEN SUFFICIENTLY COORDINATED WITH THESE EXISTING EEC REGULATIONS. THEY FEAR A PROTRACTED NEGATIVE IMPACT ON THEIR EXPORT SALES WILL DEVELOP UNTIL CONCORDANCE IS DRAWN UP BETWEEN TSCA ON THE ONE HAND AND THE 6TH AMENDMENT AND IMPENDING WEST GERMAN TOXIC SUBSTANCES CONTROL ACT ON THE OTHER.

4. THE ANXIETIES OF GERMAN CHEMICAL MANUFACTURERS REGARDING THE ASSUMPTION OF THE CONTROLLING AND SUPERVISORY FUNCTION BY THE USG RATHER THAN BY THE INDUSTRY AND THE INDUSTRY'S ASSOCIATIONS SEEMS TO HAVE LESS TO DO WITH OBJECTIONS TO GOVERNMENT CONTROL PER SE BUT RATHER BECAUSE OF THE PROBLEMS OF CONFIDENTIALITY OF INFORMATION RE INDUSTRY RESEARCH AND PRODUCT. IN THIS REGARD INDUSTRY SPOKESMEN MAINTAIN THAT THE U.S. FREEDOM OF INFO ACT APPEARS TO PLACE PROPRIETARY INFORMATION IN THE HANDS OF THE PUBLIC E.G. U.S. AND FOREIGN COMPETITORS WHICH IS GREATLY AT VARIANCE WITH GERMAN INDUSTRIAL PROTECTION LAWS.

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5. IN RESPONSE TO MR. FULLER'S INVITATION TO GERMAN INDUSTRY TO CONTACT EPA "IN PERSON OR IN WRITING" RE TSCA, DR. D.J. SCHOTTELIUS, DIRECTOR, ENVIRONMENTAL AFFAIRS DEPT., GERMAN CHEMICAL MFGRS. ASSOCIATION, INDICATED THAT THE ASSOCIATION, IN COORDINATION WITH THE APPROPRIATE GERMAN GOVERNMENT AGENCIES, WOULD BE SENDING A DELEGATION TO THE U.S. FOR THIS PURPOSE.

SCHOTTELIUS INDICATED THAT SUCH A DELEGATION WOULD TRAVEL AS SOON AS THE "RE-PROPOSED RULES FOR THE INVENTORY LIST" ARE AVAILABLE AND THAT HE WOULD HOPE TO SEE THE "RE-PROPOSALS" IN TIME FOR THE GROUP TO VISIT WASHINGTON IN OCTOBER OR, LATEST, IN NOVEMBER.

6. FROM THEIR DISCUSSIONS WITH FULLER IT WAS CLEAR THAT ANY GERMAN DELEGATION TRAVELLING TO WASHINGTON FOR DISCUSSION OF TSCA WILL WANT TO GET ANSWERS TO THE FOLLOWING: (A) HOW IS CONFIDENTIAL INFORMATION PROVIDED BY INDUSTRY UNDER THE LAW TO BE SAFE-GUARDED? WHAT ARE THE MECHANICS OF CONTROL DURING THE REVIEW PROCESS? WHAT KIND OF ENFORCEMENT MECHANISM IS TO BE ESTABLISHED TO INSURE THAT INDUSTRY'S INFORMATION IS NOT COMPROMISED? (B) HOW WILL THE LICENSING AND CLEARANCE PROCEDURES BE HANDLED? WHAT ARE THE STEPS IN THE PROCEDURE? WHAT IS THE ANTICIPATED TIME SEQUENCE IN THE HANDLING OF CASES? (C) WHAT ARE THE

CRITERIA IN THE DEFINITION OF TERM, "NEW PRODUCTS"? (D) WHAT ARE THE INFORMATION COLLECTION PROCEDURES TO BE? (E) HOW IS THE "INVENTORY LIST" PROBLEM TO BE SOLVED SO THAT IMPEDIMENTS TO TRADE ARE NOT TO DEVELOP "GERMAN INDUSTRY MAINTAINS THAT THE "CHEMICAL SUBSTANCES" AND TO SOME EXTENT THE "MIXTURES" REPORTING IN THE DECLARATIONS CANNOT REALISTICALLY BE HANDLED BY THE IMPORTER WITHOUT CONSIDERABLE DELAY IN SHIPMENT? (F) WHEN WILL TESTING PROCEDURES BE DEFINED AND WILL CHANGES IN THESE PROCEDURES BE PROMPTLY MADE AVAILABLE TO INDUSTRY? (G) WHEN WILL THE ANNEX FOR TREATMENT OF PETROLEUM PRODUCTS BE AVAILABLE TO INDUSTRY?

COMMENT: DR. SCHOTTELIUS TALKED WITH MR. FULLER AND THE REPORTING OFFICER AFTER THE MEETING AND INDICATED THAT ON SOME QUESTIONS RAISED (ABOVE) AND ON OTHER ASPECTS OF TSCA, THE UNCLASSIFIED

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ASSOCIATION WOULD TRY TO PROVIDE EPA WITH WRITTEN COMMENTS IN ADVANCE OF DELEGATIONS WASHINGTON VISIT WHICH WILL OUTLINE THE INDUSTTYS CONCERNS IN VARIOUS AREAS. THE ASSOCIATION, A 2,000 MEMBER ORGANIZATION, INCLUDES FIRMS FROM ALL BRANCHES OF THE INDUSTRY INCLUDING THE "BIGGEST"--BAYER, HOECHST, BASF, DEGUSSA, SCHERING AND MERCK. REFLECTING THE LEVEL OF CONCERN THAT GERMAN INDUSTRY HAS RE TSCA WAS THE FACT THAT ATTENDEES AT THE FULLER BRIEFING WERE ALMOST ENTIRELY FROM TOP MANAGEMENT., LEGAL AND/OR TECHNICAL RANKS OF THEIR RESPECTIVE FIRMS. BLAKE

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